

ENTERED

May 19, 2021

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

VS.

3.3921 ACRES OF LAND in STARR
COUNTY, TEXAS, et al.,

Defendants.

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CIVIL ACTION NO. 7:20-cv-00317

ORDER

The Court now considers the “Unopposed Motion to Dismiss the Unknown Heirs of Andres Hinojosa, the Unknown Heirs of Juan Antonio Silva, the Unknown Heirs of Lucila Silva Cantu, and the Unknown Heirs of Eloy Silva” filed by the United States on May 4, 2021.¹ The Court also considers the notices of disclaimer² and the unopposed motion to add Araceli Garcia Silva³ filed by the United States. Because the motions are unopposed, the Court considers them as soon as practicable.⁴

I. LEGAL STANDARD

Pursuant to Federal Rule of Civil Procedure (Rule) 71.1(c)(3), “before any hearing on compensation, the Plaintiff must add as defendants all those persons who have or claim an interest and whose names have become known or can be found by a reasonably diligent search of the records, considering both the property’s character and value and the interests to be acquired.”

¹ Dkt. No. 44.

² Dkt. Nos. 42 & 47.

³ Dkt. No. 45.

⁴ LR7.2 (“Motions without opposition and their proposed orders must bear in their caption ‘unopposed.’ They will be considered as soon as it is practicable.”).

A plaintiff may add all other defendants by designating them as “Unknown Owners.”⁵ Rule 71.7(d) governs notice requirements for added defendants.⁶ Further, Rule 71.1(i)(2) provides that the Court “may at any time dismiss a defendant who was unnecessarily or improperly joined.”⁷

II. ANALYSIS

a. Motion to Add Party Defendant

In the United States’ motion, it seeks to add Araceli Garcia Silva as a party Defendant in this case.⁸ In support of its request, the United States provides that Araceli Garcia Silva holds an ownership interest in the Subject Property which she inherited from her late husband, Eloy Silva.⁹ Based on this, the Court finds that the United States meets the criteria under Rule 71.1(c)(3) to add Araceli Garcia Silva as a Defendant through this motion. Accordingly, the Court **GRANTS** the United States’ motion¹⁰ and **ADDS** Araceli Garcia Silva as a party defendant in this case. The Court further **ORDERS** the United States to serve Araceli Garcia Silva or provide good cause for its failure to do so by **June 4, 2021**.

b. Motion to Dismiss Parties

In its motion to dismiss, the United States seeks to dismiss the Unknown Heirs of Andres Hinojosa, the Unknown Heirs of Juan Antonio Silva, the Unknown Heirs of Lucila Silva Cantu, and the Unknown Heirs of Eloy Silva.¹¹ The United States first seeks to dismiss the Unknown Heirs of Andres Hinojosa as the only interest in the Subject Property held by the Unknown Heirs of Andres Hinojosa strictly pertain to “oil, gas, and other minerals” and is thus unaffected by this

⁵ Fed. R. Civ. P. 71.1(c)(3).

⁶ Fed. R. Civ. P. 71.1(c)(4); *see* Fed. R. Civ. P. 71.1(d).

⁷ FED. R. CIV. P. 71.1(i)(2); *see id.* advisory committee’s note to 1951 amendment (“[T]he court may at any time drop a defendant who has been unnecessarily or improperly joined as where it develops that he has no interest.”).

⁸ Dkt. No. 45.

⁹ *Id.* at 2, ¶¶ 3–4 (citing Dkt. No. 45-1).

¹⁰ Dkt. No. 45.

¹¹ Dkt. No. 44.

taking.¹² On this basis, the Court agrees that the Unknown Heirs of Andres Hinojosa is unnecessarily and improperly named as a party in this case and should be dismissed.

The United States also seeks to dismiss the Unknown Heirs of Juan Antonio Silva, the Unknown Heirs of Lucila Silva Cantu, and the Unknown Heirs of Eloy Silva.¹³ In support of its motion, the United States provides that all living heirs of Juan Antonio Silva, Lucila Silva Cantu, and Eloy Silva have been identified and added as parties to this suit.¹⁴ On this basis, the Court agrees that the Unknown Heirs of Juan Antonio Silva, the Unknown Heirs of Lucila Silva Cantu, and the Unknown Heirs of Eloy Silva are unnecessarily and improperly named as parties in this case and should be dismissed.

For the foregoing reasons, the Court **DISMISSES** Unknown Heirs of Andres Hinojosa, the Unknown Heirs of Juan Antonio Silva, the Unknown Heirs of Lucila Silva Cantu, and the Unknown Heirs of Eloy Silva and orders the Clerk of the Court to terminate them as parties to this case.

III. DISCLAIMERS

The Court additionally considers the notices of disclaimer filed by the United States on behalf of Ameida Salinas, Starr County Tax Assessor-Collector,¹⁵ and the Texas Workforce Commission.¹⁶ Therein, the United States requests the Court dismiss the disclaimed Defendants from this case.¹⁷ In the disclaimers attached to the notice, Defendants announce that they “disclaim any right, title, claim or interest” in the Subject Property and “to the just compensation to be paid” and request to be dismissed from this action.¹⁸ The Court reviewed the disclaimers

¹² *Id.* at 3–4, ¶ 6(citing 44-1).

¹³ *Id.* at 4–7 (citing Dkt. Nos. 44-2–44-6) (outlining the intestate succession of each decedent); Dkt. No. 19.

¹⁴ *Id.*

¹⁵ Dkt. No. 47.

¹⁶ Dkt. No. 42.

¹⁷ Dkt. Nos. 42 & 47.

¹⁸ Dkt. No. 42-1 & 47-1.

and finds them to be duly executed. The Court thus finds good cause for dismissing the disclaimed Defendants and **DISMISSES** Ameida Salinas, Starr County Tax Assessor-Collector, and the Texas Workforce Commission from this case.

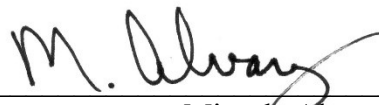
IV. CONCLUSION AND HOLDING

For the foregoing reasons, the Court **GRANTS** the United States' motion to add¹⁹ and motion to dismiss party Defendants.²⁰ Accordingly, the Court **ADDS** Araceli Garcia Silva as a party defendant in this case and **ORDERS** the United States to serve Araceli Garcia Silva or provide good cause for its failure to do so by June 4, 2021.

Furthermore, the Court **DISMISSES** Unknown Heirs of Andres Hinojosa, the Unknown Heirs of Juan Antonio Silva, the Unknown Heirs of Lucila Silva Cantu, the Unknown Heirs of Eloy Silva, Ameida Salinas, Starr County Tax Assessor-Collector, and the Texas Workforce Commission and orders the Clerk of the Court to terminate them as parties to this case.

IT IS SO ORDERED.

DONE at McAllen, Texas, this 19th day of May 2021.



Micaela Alvarez
United States District Judge

¹⁹ Dkt. No. 45.

²⁰ Dkt. No. 44.